

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

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In re:

) PACA Docket No. D-01-0019

) Rebecca A. Ballard, d/b/a

) Rudy Brokerage Co.,

) Respondent

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) Decision Without Hearing
) by Reason of Default

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agriculture Commodities Act, 1930, as amended (7 U.S.C. § 499a et seq.) (hereinafter referred to as the "Act"), instituted by a Complaint filed on June 20, 2001, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. The Complaint alleges that during the period November 1999 through July 2000, Respondent Rebecca A. Ballard, d/b/a Rudy Brokerage Co., (hereinafter "Respondent") failed to make full payment promptly to 20 sellers, of the agreed purchase prices, or balances thereof, in the total amount of \$634,902.10 for 143 lots of perishable agricultural commodities which it received, accepted and sold in interstate commerce.

A copy of the Complaint was served upon Respondent on July 9, 2001, which Respondent has not answered. The time for filing an answer having expired, and upon motion of the Complainant for the issuance of a Default Order, the following Decision and Order shall be issued without further investigation or hearing pursuant to Section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Finding of Fact

1. Respondent is an individual organized and existing under the laws of the state of Texas. Its business mailing address is 3100 Produce Row, #104, Houston, Texas 77023.

2. At all times material herein, Respondent was licensed under the provisions of the PACA. License number 981257 was issued to Respondent on May 19, 1998. This license terminated on January 2, 2001, pursuant to Section 4(a) of the PACA (7 U.S.C. § 499d(a)), when Respondent was discharged from debt in bankruptcy.

3. The Secretary has jurisdiction over Respondent and the subject matter involved herein.

4. As set forth in paragraph III of the Complaint, during the period November 1999 through July 2000, Respondent purchased, received, and accepted in interstate commerce, from 20 sellers, 143 lots of fruits and vegetables, all being perishable agricultural commodities, but failed to make full payment promptly of the agreed purchase prices, in the total amount of \$634,902.10.

Conclusions

Respondent's failure to make full payment promptly with respect to the 143 transactions set forth in Finding of Fact No. 4 above, constitutes willful, repeated and flagrant violations of Section 2(4) of the Act (7 U.S.C. § 499b(4)), for which the Order below is issued.

Order

A finding is made that Respondent has committed willful, flagrant and repeated violations of Section 2 of the Act (7 U.S.C. 499b), and the facts and circumstances set forth above, shall be published.

This order shall take effect on the 11th day after this Decision becomes final.

Pursuant to the Rules of Practice governing procedures under the Act, this Decision will become final without further proceedings 35 days after service hereof unless appealed to the Secretary by a party to the proceeding within 30 days after service as provided in Sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. 1.139 and 1.145).

Copies hereof shall be served upon parties.

Done at Washington, D.C.

this 9th day of November, 2001

Dorothea A. Baker
Administrative Law Judge